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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,944	11/29/2001	David C. Kramlich	810.528US01	5775

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EXAMINER

MAPLES, JOHN S

ART UNIT PAPER NUMBER

1745

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/997,944

Applicant(s)

KRAMLICH ET AL.

Examiner

John S. Maples

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-85 ~~is~~/are pending in the application.
- 4a) Of the above claim(s) 49-85 ~~is~~/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ ~~is~~/are allowed.
- 6) ☒ Claim(s) 1,4-8,10,12,13,19,20,23 and 24 ~~is~~/are rejected.
- 7) ☒ Claim(s) 2,3,9,11,14-18,21,22 and 25 ~~is~~/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: *Reasons for Allowance*.

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-48, drawn to a thin-film cell structure, classified in class 429, subclass 162.
 - II. Claims 49-69, drawn to a method of producing a plurality of thin-film cell structures, classified in class 29, subclass 623.1.
 - III. Claims 70-85, drawn to an apparatus for producing a plurality of thin-film cell structures, classified in class 29, subclass 730.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product as claimed could be made by another materially different process such as by laminating the materials while being in stationary positions and not in motion.

3. Inventions III and I are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case, the product as claimed can be made by a materially different apparatus such as one without a rotary cutting station, i.e., a cutting station that is not rotary.

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4. Inventions II and III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process as claimed can be practiced by a materially different apparatus such as one without a rotary cutter-a stationary cutter could be utilized.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their different classification and recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. During a telephone conversation with Dan Pastirik on March 13, 2003 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-48. Affirmation of this election must be made by applicant in replying to this Office action. Claims 49-85 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 4-8, 10, 12, 13, 19, 20, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Dasgupta et al.-US 5,498,498 (Dasgupta).

Reference is made to Figure 1 of Dasgupta along with column 4, line 13-column 5, line 10; column 6, line 12 through column 7, line 30. See also Example 2 in Dasgupta where the electrode plates are recited as being 0.95 inches square.

10. The following is an examiner's statement of reasons for allowance: the prior art does not disclose the claimed battery including gaps between individual cathode sheets, each sheet having a current collector layer contacting therewith, where a solid electrolyte layer extends across the said gaps wherein an electrical insulator layer contacts a second surface of the current collector layer. The art also does not disclose the limitations of claim 26 comprising a battery including dual cathode layers and dual solid electrolyte layers wherein the electrolyte layers extend over gaps between cathode sheets making up the cathode layers.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kawakami discloses a lithium battery of interest including individual anode and cathode sheets.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John S. Maples whose telephone number is 703-308-1795. The examiner can normally be reached on Monday-Thursday from 6:15-3:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 703-308-2383. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

John S. Maples
Primary Examiner
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JSM/9-30-2003